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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

**CALIFORNIA DEPARTMENT OF
WATER RESOURCES,**

Plaintiff,

v.

**POWEREX CORP., a Canadian
Corporation, dba POWEREX ENERGY
CORP.,**

Defendants.

2:05-CV-00518-GEB EFB

**AGREED ORDER MODIFYING
THE PROTECTIVE ORDER**

Date: December 2, 2009
Courtroom: 25
Time: 10:00 a.m.
Magistrate Judge Edmund F. Brennan
Trial Date May 18, 2010

Having considered CDWR's Motion to Modify the Protective Order, the response, the pleadings and having been advised by counsel that an agreement had been reached on the terms of the Modification:

IT IS, THEREFORE, ORDERED that the Stipulation and Protective Order [Docket No. 111] be modified as follows:

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1 **1. Add an additional sentence to paragraph 11 as follows:**

2 “(j) parties, interveners or FERC personnel in FERC Docket Nos. EL09-56, EL00-
3 95, EL01-10, EL01-68, and EL02-71.”

4 **2. Revise Paragraph 14 to read:**

5 All information designated as Confidential Information shall be used only for the
6 purpose of this litigation *and the following FERC Docket Nos.: EL09-56, EL00-95,*
7 *EL01-10, EL01-68, and EL02-71, subject to FERC orders and standards of*
8 *confidentiality*; and shall not be made public by the receiving party, or any agents
9 thereof, or divulged to anyone other than the persons permitted access as set forth
10 in paragraph 11 above. Any person in possession of Confidential Information shall
11 maintain it in a reasonably secure manner to avoid disclosure of its contents.

12 **3. Revise Paragraph 27 to read:**

13 All Confidential Information disclosed in this litigation shall be used solely for this
14 litigation *or FERC proceedings specified in Paragraph 14*, and not for any
15 business, competitive, or other purposes whatsoever.

16 **4. Add Paragraph 32 to read:**

17 Notwithstanding any other provision of this Protective Order, any Confidential
18 Information disclosed pursuant to paragraph 11(j) shall be governed expressly by
19 this Protective Order, and additionally by any existing or future protective orders
20 entered in FERC Docket Nos. EL09-56, EL00-95, EL01-10, EL01-68, and EL02-
21 71, and by FERC standards of confidentiality including, without limitation, 18
22 C.F.R. § 388.112 (2009).

23 **5. Add Paragraph 33 to read:**

24 Notwithstanding any other provision of this Protective Order, deposition
25 transcripts created in FERC Docket Nos. EL02-60 and EL02-62 and produced by
26 CDWR in this proceeding may not be disclosed pursuant to paragraph 11(j).

27 **IT IS FURTHER ORDERED** that, in light of the parties’ agreement, the
28 December 2, 2009 hearing on plaintiff’s motion to modify the parties’ protective order is
 vacated, and defendant’s motion to seal an unredacted version of its partial opposition to
 plaintiff’s motion and related exhibits, Dckt. No. 215, is deemed withdrawn. The Clerk is
 directed to return the unredacted partial opposition and proposed sealed documents that
 defendant submitted to the court (Exhibits A, B, C, D, E, and F to the Declaration of J.

1 Clifford Gunter) to defendant at the following address:

2 J. Clifford Gunter, III
3 Bracewell & Giuliani, LLP
4 South Tower Pennzoil Place
5 711 Louisiana Street
6 Suite 2300
7 Houston, TX 77002

8 **IT IS SO ORDERED.**

9 Dated: December 1, 2009.



EDMUND F. BRENNAN
United States Magistrate Judge